

Internal Revenue Service

Number: **200714015**

Release Date: 4/6/2007

Index Number: 831.00-00, 9100.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:FIP:B04

PLR-152628-06

Date:

December 21, 2006

Legend

Company A =

Representative A =

Representative B =

Date A =

Date B =

Date C =

Date D =

Date E =

Date F =

X =

Dear :

This is in reply to a letter dated November 2, 2006, submitted on behalf of Company, requesting, in accordance with section 301.9100-3 of the Income Tax Regulations, an extension of time for making an election under § 831(b)(2)(A) of the Internal Revenue Code.

Information submitted indicates that Company is a small captive insurance provider and qualifies as a property and casualty insurance company under part II of subchapter L. Company was formed under the laws of the _____ on Date A. Company made a timely election to be taxed as a domestic corporation under § 953(d)(1)(D) effective for its short tax year ending X.

As Company's tax preparer, Representative A, determined that Company was an insurance company exempt from tax under § 501(c)(15) that should file a Form 990. Representative A's determination was based on a memorandum prepared by Representative B on behalf of Company which explained the options available to a small captive insurance company. Based upon the information provided in the memorandum, Representative A determined that Company qualified under § 501(c)(15) rather than § 831(b). Representative A filed for an extension of time until Date B for Company to file its tax return for the short tax year ending X. Company filed an additional extension until Date C. After filing the extension, Representative A learned from Representative B on Date D, that for purposes of § 501(c)(15), the gross receipts of the controlled group to which Company is a member must be aggregated. Accordingly, Company was not eligible to be treated as an insurance company exempt from tax under § 501(c)(15) because the gross receipts for the taxable year exceeded _____. However, Company was eligible to make the small business election for non-life insurance companies under § 831(b)(2)(A). Representative A was not aware of the aggregation requirement under § 501(c)(15) until after the deadline for either an extension to file Form 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return or the final return for the short tax year ending X. The Form 1120-PC was filed by Company for the short tax year ending X on Date E. On Date F, Company, with the assistance of Representative A, filed a request for relief under § 301.9100-3 to elect § 831(b).

Company represents that the granting relief by the Service would not result in a lower tax liability than Company would have had if the election were made timely.

Generally, insurance companies other than life insurance companies are taxable under § 831(a) on their taxable income. However, certain eligible companies pay an alternative tax provided in § 831(b) based only on their taxable investment income. Section 831(b)(2)(A)(ii) requires that a company elect the application of the alternative tax imposed by § 831(b). That election is made on a timely filed return.

Under § 310.9100-1(c) of the Procedure and Administration Regulations the Commissioner may grant a reasonable extension of time under the rules set forth in

§§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, H, and I.

Section 1.301.9100-2 provides an automatic extension of time for making certain elections.

Section 310.9100-3(a) provides, in pertinent part, that requests for extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2 must be made under the rules of § 301.9100-3. Requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1) provides that except as provided in § 301.9100-3(b)(3) (i) through (iii), a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer: (i) requests relief under this section before the failure to make the regulatory election is discovered by the Internal Revenue Service; (ii) failed to make the election because of intervening events beyond the taxpayer's control; (iii) failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election; (iv) reasonably relied on the written advice of the Internal Revenue Service; or (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c)(1) provides in pertinent part, that the Commissioner will grant a reasonable extension of time to make the regulatory election only when the interests of the Government will not be prejudiced by the granting of relief.

Based solely on the facts submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Company is granted an extension of time until 60 days following the date of this letter to make the election to be subject to the alternative tax provided in § 831(b)(2)(A) for the short tax year ending X.

Except as expressly provided above, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item and no ruling granted as to whether Company is an insurance company under part II of subchapter L.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely yours,

/S/

Thomas Preston
Senior Counsel, Branch 4
(Financial Institutions & Products)